

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

DEPARTMENT OF INDUSTRIAL RELATIONS
OFFICE OF THE DIRECTOR
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June 1, 2005

Travis Lange
Environmental Services Manager
City of Santa Clarita
23920 Valencia Boulevard, Suite 300
Santa Clarita, CA 91355-2196

RECEIVED
Department of Industrial Relations

JUN - 7. 2005

Re: Public Works Case No. 2005-007
Street Sweeping
City of Santa Clarita

Div. of Labor Statistics & Research
Chief's Office

Dear Mr. Lange:

This constitutes the determination of the Director of the Department of Industrial Relations ("Department") regarding coverage of the above-referenced work under California's prevailing wage laws and is made pursuant to title 8, California Code of Regulations, section 16001(a). Based on my review of the facts of this case and an analysis of the applicable law, it is my determination that the street sweeping work of the City of Santa Clarita ("City") is not a public work subject to the payment of prevailing wages.¹

Factual background

City has invited bids for street sweeping services. The bid specifications provide that all contractors and subcontractors possess not less than five years of actual operating experience in the field of municipal street sweeping. Further, an inventory of the type of equipment to be used, whether vacuum, mechanical broom or regenerative air was required in the bids. Sweepers were also required to have a means of monitoring the speeds, hours of operation and brush operation for reporting purposes. The specifications further provide that "all employees working on this contract shall be paid prevailing wages as determined by the Department of Industrial Relations."

¹ On or about March 1, 2005, PW 2000-021, City of Santee/California Street Maintenance Street Sweeping (August 11, 2000), which held that street sweeping constituted public work as maintenance, and PW 1999-028, County of San Diego Road Maintenance (June 30, 1999), which held, among other things, that cleaning roads with a street sweeper constituted maintenance, were de-designated as precedential determinations.

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The scope of work under the contract includes the following: sweeping 899 curb miles within City, including all median curbs and cul-de-sacs within the sweeping schedule; sweeping all City owned or leased parking lots with 25 or more parking spaces; the sweeping of additional areas not part of a regular schedule, such as after a parade or other special event; and sweeping of the City's trail system, which is approximately 25 miles long.

The following are included, in relevant part, as standards of performance: sweeping must be performed in accordance with accepted standards for routine and emergency municipal street cleaning; sweepers must be of the following types: regenerative air, broom/brush sweeper, vacuum sweeper or other which can be proven to be equally effective at removing fine particulate matter and sediment; equipment shall control and remove dust from the surface being swept, and control airborne particles to the maximum extent practicable in compliance with existing AQMD Standards and the Clean Air Act; sweepers shall operate at speeds by the manufacturer for optimum sweeping (typically, 6 to 8 miles per hour), cul-de-sacs which are too small for sweepers to clear the turning radius, must be swept by hand (an acceptable alternative to hand sweeping will be considered), all paved medians are to be swept by hand on a weekly basis (an acceptable alternative to hand sweeping will be considered), no chemicals (including but not limited to chloride, nitrates and chloroform) shall be used to enhance the cleaning of the street, contractor must comply with the Clean Water Act and with the Environmental Protection Act, and contractor shall respond within two hours to clean up spills created by sweepers.

Analysis

Under Labor Code section 1771, contracts let for maintenance are subject to the payment of prevailing wages. "Maintenance" is defined, in relevant part, in title 8, California Code of Regulations, section 16000, to include:

(1) Routine, recurring and usual work for the preservation, protection and keeping of any publicly owned or publicly operated facility (plant, building, structure, ground facility, utility system or any real property) for its intended purposes in a safe and continually usable condition for which it has been designed, improved, constructed, altered or repaired.

To "preserve" something means to "keep [it] from harm, damage, ... etc.; protect; save" or "to keep up; carry on; maintain." To

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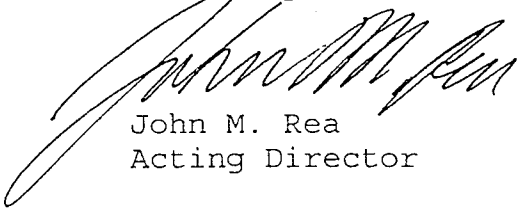
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"protect" means "to shield from injury, danger or loss; guard; defend." To "keep" means "to maintain in good order or condition." (Webster's New World Dict. (3d college ed., 1988).

The street sweeping work contracted for by City is a cleaning of the streets, which serves an aesthetic purpose. The contemplated work requires the operation of a street sweeping vehicle, and some manual sweeping, when using the vehicle is infeasible due to limits on navigable space. Cleaning city streets, without more, does not constitute "preservation," in that mere cleaning does not keep the streets from "harm or damage" nor does cleaning "protect, save, keep up, carry on or maintain" the city streets. Further, cleaning of city streets does not "protect" in that it does not "shield from injury, danger or loss, nor does it constitute guarding or defending." Lastly, cleaning of city streets does not constitute "keeping" as cleaning, alone, does not serve to "maintain" the city streets in good order or condition." Accordingly, city street sweeping does not constitute "maintenance." Because city street sweeping does not constitute maintenance, it is not a public work for which prevailing wages are required to be paid.

I hope this determination satisfactorily answers your inquiry.

Sincerely,



John M. Rea
Acting Director

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